

**MEMORIALIZING RESOLUTION OF THE  
BOROUGH OF SEASIDE PARK PLANNING BOARD  
APPLICATION NO. PB 18-17**

WHEREAS, the Borough of Seaside Park Planning Board is a duly constituted Planning Board pursuant to N.J.S.A. 40:55D-23 and 25c, and Borough of Seaside Park Development Ordinance §200-15; and

WHEREAS, **MESSANO ASSOCIATES, INC**, applicant, has applied to the Planning Board of the Borough of Seaside Park to construct a new set of switchback steps in front of an existing elevated single family dwelling necessitating bulk variances for premises located at 120 G Street, also known as block 43, lot 8, as designated on the official tax map of the Borough of Seaside Park; and

WHEREAS, the application was subsequently amended to substitute the property owners, **JEFFREY YOUNG and SANDRA YOUNG** as the Applicants of record; and

WHEREAS, the applicants have provided proper notice to all property owners within 200 feet and all other pertinent parties; and

WHEREAS, the applicants have submitted to the Board an Affidavit of Publication in proper form; and

WHEREAS, the applicants are requesting bulk variances for front yard setback of 1.9 feet (steps) and 8.9 feet (porch roof) whereas 15 feet is required; and

WHEREAS, the Planning Board having considered the application and the documents filed by the applicants; having heard the testimony on behalf of the applicant and witnesses, and having examined the exhibits submitted, and having heard the

testimony of all interested parties during its meetings of August 28, 2018 and October 23, 2018; and

WHEREAS, the Planning Board after carefully considering all the evidence provided, has made the following findings of fact:

1. All those exhibits contained in the Board file and discussed during the hearing are hereby considered evidence for the purpose of this application.

2. In addition to the exhibits noted above, the following exhibits were also specifically marked into evidence at the hearing:

- A-1 Development Application
- A-2 Tax Collector's Certification
- A-3 Water & Sewer Certification
- A-4 Tax Assessor's Certified List of Property owners
- A-5 Affidavit of service
- A-6 Affidavit of publication
- A-7 Hearing notice.
- A-8 Review letter dated July 12, 2018 prepared by Board Engineer, Douglas Rohmeyer, PE, CME, CFM.
- A-9 Stop Work Order dated May 29, 2018.
- A-10 Grading and Plot Plan prepared by John W. Lorde, PE, PP dated July 23, 2017, One Sheet, with type written proposal for "80 s.f.+/- enclosure addition for internal stairs to ground floor," and hand drawn red ink depiction of modification to include exterior "switch back stairs."
- A-11 Architect Plans prepared by Shore Design Drafting Services dated July 17, 2017, last revised November 13, 2017, initially submitted with Development Application.

- A-12 Elevation Certificate prepared by William J. Fiore, PLS, dated August 10, 2018.
- A-13 As-built Survey prepared by William J. Fiore, PLS, dated May 3, 2018.
- A-14-1 Architect Plans prepared by Shore Design Drafting Services dated July 17, 2017, last revised November 13, 2017, stamped by "RN" for Building Subcode on **November 30, 2018**
- A-14-2 Architect Plans prepared by Shore Design Drafting Services dated July 17, 2017, stamped by "RN" for Building Subcode on **August 28, 2018**, then crossed out and marked "Received new prints RN"
- A-14-3 Architect Plans prepared by Shore Design Drafting Services dated July 17, 2017, last revised September 2, 2017, stamped by "RN" for Building Subcode on **September 5, 2017**.
- A-15 Hand drawn floor plan of detached garage with 10 color photos of the inside of the garage.
- A-16 Zoning Permit approval dated **August 24, 2017** granting permission for "house raise."

3. The property is located in the Residential Zone District which permits single family residential uses.

4. The applicant is the owner of the subject property.

5. CHARLES MESSANO, was duly sworn and testified as follows:

A. He testified he is the applicant's builder on this project. Prior to construction, he submitted plans to the zoning and building department to raise an existing house and construct an enclosed entry stairwell in place of the existing entry landing as depicted on Exhibit A-10. A zoning permit was issued for the interior stair case design.

B. He testified that during construction he and the owner decided the project would look better if the open air entry porch remained, and a switchback stair case was constructed in front of the existing house.

C. He testified the building plans were modified, but a new zoning permit was not obtained for the modified plan. He submitted the modified plans directly to the building official who approved them without a zoning permit in the file.

D. Despite his extensive experience as builder, he did not recognize the need for a new zoning permit even though the new stairs were proposed at 1.9 feet from the front property line versus the 8.9 feet provided by the originally approved plan.

E. He testified that the property located at 105 G Street has a similar front setback as that proposed by the applicant.

F. He testified that the landing provided by the switchback design makes the stairs easier to climb.

6. JEFFREY YOUNG, was duly sworn and testified as follows:

A. He testified he is the owner of the subject property which has been raised to meet the flood plain elevation requirements.

B. He testified the front entry deck was part of the home prior to it being raised, but the roof was added as part of this project.

C. He testified that the rear garage is not an apartment. It is used strictly for storage, and does not contain any living, kitchen or sleeping quarters as noted in Exhibit A-15.

D. He testified the switchback stairs allow front yard seating with a view of the bay.

7. DOUGLAS ROHMEYER, Board Engineer, testified that the applicants' plan provides less than one foot of front yard setback, not the 1.9 feet noted on the application. Further, if the applicant modified the plan to propose a straight stair, eliminating the switchback section, approximately 5.4 feet of front setback can be achieved.

8. The meeting was opened to the public.

9. MITCHELL KOPPELMAN, was duly sworn and testified that "the process was not followed here" and opined that providing a <1 foot front yard setback was out of character with neighborhood and violates the intent of the Borough Master Plan. He felt the proposal will block views along the street and asked the Board to deny the application.

10. SHIRLEY KRESZL, was duly sworn and testified that the mistakes here were not the owners fault but rather the contractor's. However, when she developed her own property her landings stayed the same, and many other neighbors are also in compliance with the regulations. She felt the applicant should amend their plan to provide additional front setback, similar to the originally approved plan.

11. The meeting was closed to the public as there were no additional members of the public that wished to be heard in the matter.

12. The Board considered the testimony of the applicant and the witnesses and all the exhibits contained in the Board file and same are hereby incorporated as the findings of fact of the Planning Board.

WHEREAS, the Board finds that Applicant was not granted zoning approval by the Borough to construct the switchback stairs; and

WHEREAS, the Borough of Seaside Park Planning Board has determined that

- a. the purposes of the Municipal Land Use Law will be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation substantially outweigh any detriment; and
- b. the applicant will suffer undue hardship if the relief is not granted; and
- c. the variances requested by the applicant can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinances of the Borough of Seaside Park for the following reasons:

1. The proposed development, as modified by the conditions below, does not violate the light, air, or space of any adjacent property owner as the proposed roof is in line with the existing front façade of the home, and does not project further into the front setback.

2. Maintaining the front porch as an open air porch is a better alternative to the enclosure provided on the originally approved building plans, both aesthetically and from an air, light and space perspective.

3. Applicant's home is a legally existing structure upon the lot which makes construction of entry stairs in conformance with the setback difficult.

4. The proposed development is consistent with other residential structures and uses in the surrounding neighborhood, many of which have been raised to meet flood elevation requirements.

5. The development promotes the safety of the site by bringing the property into conformity with the latest FEMA flood elevation standards.

6. Creation of another site in the Borough that conforms to the latest FEMA flood elevations requirements promotes the general welfare of the Borough by securing the neighboring properties from storm debris, and enhancing the NFIP rating of the Borough which tends to lower flood insurance premiums for all residents.

NOW, THEREFORE, be it resolved by the Borough of Seaside Park Planning Board on this 20<sup>th</sup> day of November, 2018, that the application of **JEFFREY YOUNG and SANDRA YOUNG** for bulk variances be and hereby is granted subject, however, to the following conditions:

1. A bulk variance for front yard setback of 5.4 feet (front stairs as modified herein) whereas 15 feet is required, shall be granted.

2. A bulk variance for front yard setback of 8.9 feet (roof over entry landing / deck) whereas 15 feet is required, shall be granted.

3. The stair design shall be modified from a switchback design to a straight stair to substantially increase the front setback on the site. A landing may be included at the midpoint of the run to make the stairs easier to climb as requested by the applicants' builder. This modification appropriately balances the positive impact of maintaining the open air entry landing with the negative impact of stairs in the front yard setback. While

this modification may hinder the desired front yard seating, the applicant has the option of reverting to the prior plan approved by the zoning officer that utilizes an interior stair and allows for the same front yard area provided on the property prior to elevating the home.

4. The Code Enforcement Officer and the Construction Official shall inspect the rear garage to confirm that all appropriate subcode permits and inspections were granted for the bathroom and/or other rough plumbing and fixtures contained therein.

5. The plan shall be amended in accordance with the terms and conditions of this resolution, and shall be subject to review and approval of the Board Engineer.

6. The applicant shall strictly comply with the plans and surveys submitted and discussed, as amended, during the hearing. Any deviation from said plans shall be subject to further review and approval by the Planning Board.

7. The entry landing / deck shall contain only an open air style railing, with no more solid surface than is required by the building code. The deck shall not be further enclosed with walls, windows, screens, shades, blinds, sashes or any other material or construction that will block the view of the adjacent property owners.

8. The variances granted herein shall be exercised within two years as provided by Borough Code 200-16D.

9. The applicant shall obtain any and all other federal, state, county, and local approvals as required by law, including but not limited to NJDEP/CAFRA (or letter of no interest), NJDOT, FEMA and local flood plain regulations, Ocean County Planning Board, Borough Water and Sewer Department, Ocean County Soil Conservation District, and the local fire official.

10. The applicant shall provide performance bonds and inspection fees in accordance with the Seaside Park Borough Ordinances or any other law or regulation as required.

11. Proof of payment of real estate taxes to date.

12. Proof of payment of all outstanding application fees and professional escrow fees.

13. No building or zoning permit shall be issued until the applicant fully complies with all conditions of this resolution.

Moved by: Losey

Seconded by: DiCaro

ROLL CALL

Those in Favor: Losey, DiCaro, Boag, Bucci, Pitchell, Kroon, Chairman Giuliano

Those Opposed: None

Those Abstaining: None

CERTIFICATION

I, Sandra F. Martin, Secretary of the Borough of Seaside Park Planning Board, hereby certify the above Resolution to be a true and correct copy of a Resolution adopted by the Borough of Seaside Park Planning Board on November 20, 2018.

*Sandra F. Martin*  
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, SECRETARY